

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

APR 30 2001

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

JAMES W. McCORMACK, CLI
By: [Signature] DEP CL

PLAINTIFF

JAMES E. GREEN, SR.

VS.

NO. 5:01CV00142 WRW

**MICHAEL R. BERRY, DREW COUNTY SHERIFF,
and OLD REPUBLIC SURETY CO.**

DEFENDANT

This case assigned to District Judge W.S.
COMPLAINT and to Magistrate Judge Young

Comes the Plaintiff, and for his Complaint against, the Defendants' herein, state:

JURISDICTION

1. That all Parties herein, Plaintiff and Defendants, are residents of Drew County, Arkansas, and so resided at all times pertinent hereto, and all actions complained of occurred in Drew County, Arkansas. Further, that the Sheriff's Office of Drew County is a party Defendant, such county being a subdivision of the State of Arkansas;

2. That Plaintiff is a United States citizen and citizen of the State of Arkansas;

3.a. That Defendant Mike Berry is an individual citizen of the State of Arkansas;

b. The Drew County Sheriff was a duly elected Public Official of the County of Drew, State of Arkansas;

c. That Old Republic Surety Company is a corporate entity located in Dallas, Texas, lawfully doing business in Drew County, Arkansas.

FACTS

4. On November 10, 1999, the duly elected Sheriff of Drew County, Arkansas, together with deputies and the Defendant Mike Berry, entered upon the premises of Defendant's Barber Shop at Monticello, under color of law, and forcibly entered the building and scattered and caused the loss

of personal property belonging to Plaintiff in the value of some \$10,000.00;

5. That Defendants also removed the building which housed the Barber Shop and forcibly took possession from Plaintiff, depriving him of this personal property in value of some \$6,000.00, and further, depriving Plaintiff of the ability to engage in his trade of barbering, resulting in lost income of some \$20,000.00 per year;

6. That in addition to the losses herein enumerated, Plaintiff has suffered severe emotional and physical harm as a result of this incident and the resulting lost income, including loss of his health insurance and having been forced to file bankruptcy;

7. That although Defendants acted under the auspices of an Order from the Monticello Municipal Court, said Order was wholly ineffectual as it was obtained by misrepresentation of facts to the Municipal Court, such misrepresentation consisting of:

a. That the value of the building was \$3,000.00, when in fact the building was well worth \$6,000.00, and such misrepresentation was made in order to seek a favorable venue and Jurisdiction;

b. That no Notice of any kind was made to Plaintiff of the filing and pendency of the Replevin action, until eighty (8) days before the forcible entry when the Sheriff sent an undated letter advising Defendant that the property would be taken;

c. That Arkansas law, which controlled in this circumstance, required that a bond in twice the value of the property be in place before execution of the writ, and the record indicates that a bond of \$5,000.00, only, was written; even using Defendant's property value of \$3,000.00, the bond is insufficient;

8. That the Plaintiffs acted with malice, in bad faith, and in excess of governmental or legal or Judicial authority, and said Plaintiffs, individually and jointly, should be Ordered to repay Plaintiff

for all losses herein;

9. That Defendants should be directed and Ordered to return the building which was removed and to restore the value of the lost items in the sum of \$10,000.00;

10. That Plaintiff have Judgment against Defendants in the sum of four million dollars (\$4,000,000.00) for lost income, inconvenience and ancillary damages, and other proper relief, including punitive damages and attorney's fees and costs.

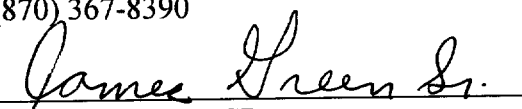
WHEREFORE, Plaintiff prays for Judgment directing Defendants to forthwith return to Plaintiff the barber building removed by them, for Judgment in the compensatory sum of \$10,000.00 for lost or destroyed personal property, for four million dollars (\$4,000,000.00) in lost wages and ancillary losses, for punitive damages, and for attorney's fees and costs, and for other proper relief.

Respectfully submitted,

JAMES E. GREEN, SR., Plaintiff
PRO SE

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Monticello, Arkansas 71655
(870) 367-8390

BY:


JAMES GREEN, SR.